



Ninety-Eighth Legislature - Second Session - 2004
Committee Statement
LB 941

Hearing Date: January 22, 2004

Committee On: Health and Human Services

Introducer(s): (Byars)

Title: Provide for scope of practice and training for occupational therapists

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7 Yes Senator Jensen, Byars, Cunningham, Maxwell, Erdman and Johnson

No

Present, not voting

1 Absent Senator Stuthman

Proponents:

Senator Byars
Amy Lamb
Brenda Coppard
Amy Matthews
Heather Jenny

Representing:

Introducer
Nebraska Occupational Therapists
Nebraska Board of Occupational Therapy
Creighton University Medical Center
Nebraska Physical Therapists

Opponents:

John DeCamp

Representing:

Self

Neutral:

David McBride

Representing:

Nebraska Optometric Association

Summary of purpose and/or changes: The bill makes substantive changes in statutes relating to the practice of occupational therapy.

Section 2 strikes and amends definitions in section 71-6103. The definition of “occupational therapy” is amended to provide, in part, that occupational therapy includes: “(i) remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes, (ii) adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance, (iii) disability prevention methods and techniques which facilitate the development of safe application of performance skills, and (iv) health promotion strategies and practices

which enhance performance abilities.” The bill also amends the definitions of “occupational therapy aide” and “occupational therapy assistant” (section 2).

Section 3 amends section 71-6104 to remove an existing exemption to the Occupational Therapy Practice Act which permits an unlicensed person to perform occupational therapy. The bill intends to require licensure of occupational therapists.

Section 4 defines the scope of practice for occupational therapy aides (aides). The bill requires occupational therapy aides to function under the guidance and responsibility of an occupational therapist. An aide may also be supervised by an occupational therapist or an occupational therapy assistant for specifically selected routine tasks for which the aide has been trained and has demonstrated competence. The aide must comply with supervision requirements developed by the Board of Occupational Therapy (board). The board is required to develop supervision requirements for aides which are consistent with prevailing professional standards.

Section 5 defines the scope of practice for occupational therapists and permits them to: “(1) Evaluate, develop, improve, sustain, or restore skills in activities of daily living, work activities, or productive activities, including instrumental activities of daily living, and play and leisure activities; (2) Evaluate, develop, remediate, or restore sensorimotor, cognitive, or psychosocial components or performance; (3) Design, fabricate, apply, or train in the use of assistive technology or orthotic devices and train in the use of prosthetic devices; (4) Adapt environments and processes, including the application of ergonomic principles, to enhance performance and safety in daily life roles; (5) Apply physical agent modalities as an adjunct to or in preparation for engagement in occupations when applied by a practitioner who has documented evidence of possessing the theoretical background and technical skills for safe and competent use; (6) Evaluate and provide interventions in collaboration with the client, family, caregiver, or others; (7) Educate the client, family, caregiver, or others in carrying out appropriate nonskilled interventions; and (8) consult with groups, programs, organizations, or communities to provide population-based services.”

Section 6 permits an occupational therapy assistant to deliver occupational therapy services enumerated above for occupational therapists in collaboration with and under the supervision of an occupational therapist.

Section 7 inserts new provisions relating to referrals. An occupational therapist may accept referrals from a licensed health care professional for the purpose of evaluation and rehabilitative treatment. Referrals may be for an individual case or may be for an established treatment program that includes occupational therapy services. Referrals must be in writing, except that oral referrals may be accepted if they are followed by a written and signed request of the person making the referral within thirty days after the day on which the patient consults with the occupational therapist.

Section 8 provides that the public may have direct access to occupational therapy services.

Section 9 inserts new provisions relating to the application of various modalities in the practice of occupational therapy. Before applying physical agent modalities, an occupational therapist must have a minimum of six clock hours of training, unless more hours are required by the board, including both didactic and clinical components, and pass a competency examination. The requirement does not apply to “(a) The exclusive use of physical agent modalities as a therapeutic intervention without application to occupational performance; (b) An occupational therapist who is credentialed as a certified hand therapist by the Hand Therapy Certification Commission or equivalent training as approved by the board; (c) An occupational therapist who has a minimum of five years of experience in the use of physical agent modalities and have

demonstrated competencies for such use; and (d) An occupational therapist who has documentation of education received in a basic educational program which included demonstration of competencies for application of physical agent modalities.”

For the application of superficial thermal agents, an occupational therapist must demonstrate competencies through a written examination approved by the board. For the application of deep thermal agents or electrotherapeutic agents, an occupational therapist must demonstrate competencies through a written and practical examination approved by the board.

An occupational therapist may not delegate evaluation, reevaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

Sections 11 and 12 delete and insert provisions relating to the adoption and promulgation of rules and regulations under the Occupational Therapy Practice Act. The bill requires the Department of Health and Human Services Regulation and Licensure (department), with the approval of the board, to adopt and promulgate rules and regulations necessary to carry out the act. Rules and regulations must include: “(a) definitions of unprofessional conduct, (b) definitions of conflicts of interest for members of the board and procedures in the case such a conflict arises, (c) role delineation for occupational therapy assistants, and (d) continuing competency requirements.”

The department, with the approval of the board, must adopt and promulgate rules and regulations to implement changes made in the bill and to provide for implementation of changes in the occupational therapy scope of practice to be implemented for licensees as soon as rules and regulations become effective.

Explanation of amendments, if any: The committee amendment (AM 2388) strikes sections 2 and 9 of the bill and makes technical and other changes relating to the application by an occupational therapist of various physical agent and other modalities.

In section 2, the amendment adds new definitions for “deep thermal agent modalities,” “electrotherapeutic agent modalities,” “mechanical devices,” “physical agent modalities,” and “superficial thermal agent modalities.”

The amendment rewrites section 9 of the bill relating to the application of physical agent and other modalities. It requires an occupational therapist to be certified by the department in order to apply physical agent modalities. To be certified, an occupational therapist must (1) complete a training course and pass an examination approved by the Board of Occupational Therapy (board), (2) be certified as a hand therapist by the Hand Therapy Certification Commission or other equivalent entity recognized by the board, (3) have a minimum of five years of experience in the use of the physical agent modality and pass an examination approved by the board, or (4) complete education during a basic educational program which included demonstration of competencies for application of the physical agent modality.

Occupational therapy assistants must be certified by the department to set up and implement treatment using superficial thermal agent modalities. To be certified, persons must complete a training course and pass an examination approved by the board. Such task may only be performed under the onsite supervision of an occupational therapist certified to administer superficial thermal agent modalities.

An occupational therapist may not delegate evaluation, treatment planning, and treatment goals for physical agent modalities to an occupational therapy assistant.

The amendment adds a new subsection to section 11 of the bill, to permit the board to adopt and promulgate rules and regulations governing training courses for certification of occupational therapists to administer physical agent modalities and for occupational therapy

assistants to set up and implement superficial thermal agent modalities. The board must also adopt and promulgate rules and regulations for the approval of and the passing scores for certification examinations. In adopting such rules and regulations, the board must give consideration to the levels of training and experience required, in the opinion of the board, to protect the public health, safety, and welfare and to insure, to the greatest extent possible, the efficient, adequate, and safe practice of occupational therapy.

Senator Jim Jensen, Chairperson